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INTEGRATING WITHOUT QUITE BREAKING THE RULES: THE EU AND INDIA'S ACCEPTANCE WITHIN THE NON-PROLIFERATION REGIME

BENJAMIN KIENZLE

I. INTRODUCTION

Over the past ten years (or more) India has been a frequent source of controversy in the non-proliferation community. In particular, the controversial decision by the Nuclear Suppliers Group (NSG) to allow nuclear exports to India—despite the fact that India developed a nuclear weapon capability outside the existing international nuclear non-proliferation regime, and that proliferation-sensitive parts of the Indian nuclear fuel cycle remain outside International Atomic Energy Agency (IAEA) safeguards—has been a hotly debated topic. In reality, however, the waiver was just a reflection of a much broader issue: how to integrate an emerging power within a multilateral system that was not designed to absorb it in the first place.

Since the NSG waiver merely postponed rather than resolved this fundamental issue, debates about India's complex relationship with the international non-proliferation regime will continue for years to come. The European Union (EU) and its member states are likely to play a key role in these debates, for three reasons. First, the EU has become a self-declared champion of the international non-proliferation regime, kick-starting its non-proliferation policy with the 2003 EU Strategy against Proliferation of Weapons of Mass Destruction (WMD Strategy). Consequently, any development that affects the regime's fundamental structure is a key concern for the EU. Second, EU member states are integral members of virtually all institutions and treaties of the international non-proliferation regime. Thus, they have an important say regarding all matters affecting India's participation.¹ Third, the EU and its member states have close and

SUMMARY

As a result of significant policy changes, India has begun in recent years to advocate its increasing integration into the existing nuclear non-proliferation regime as a nuclear-weapon state, thus challenging fundamental regime rules. As a consequence, India has turned into a serious test case for the European Union (EU) and the credibility of its emerging non-proliferation policy based on the promotion and strengthening of the non-proliferation regime. In essence, the EU is faced with a normative dilemma in the implementation of its policy of 'effective multilateralism': between adhering to the non-proliferation rules set out by EU member states in 2003 and reinforced in 2008, and the need to integrate a dissatisfied emerging power within multilateral structures.

This paper argues that the record so far demonstrates the potential to establish a pragmatic common European line, which would strengthen the European position in the dialogues and negotiations with India on nuclear matters. More specifically, EU member states should recognize that the nuclear non-proliferation regime could be made more effective by including India, but only on the condition that it strengthens its commitment to elements of the regime that also impose significant costs, in particular the Comprehensive Nuclear-Test-Ban Treaty.

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¹ Kienzle, B. and Vestergaard, C., 'The non-proliferation regime', eds K-E. Jørgensen and K. V. Laatikainen, *Routledge Handbook on the European Union and International Institutions* (Routledge: Abingdon, 2013), pp. 371–88.

long-established relations with India itself, which makes it particularly difficult to ignore a key issue such as India's integration into the non-proliferation regime.²

This paper examines India's complex and controversial relationship with the international nuclear non-proliferation regime from a broader perspective and describes how the EU and its member states have responded to India's challenge of the regime over time. It argues that the EU is confronted with a dilemma encapsulated in different interpretations of its mantra of 'effective multilateralism': it can either uphold the principle of multilateralism against all changes that India's integration into the existing non-proliferation regime entails, including the universalization of all regime treaties, as originally agreed to by member states in the 2003 WMD Strategy and the 2008 update; or it can follow those who argue that a multilateral regime becomes more effective by including powerful outliers in the regime, even if this circumvents existing multilateral principles. Although EU member states have been far from united in this respect, European responses so far suggest that they ultimately tend to the latter option. Finally, this insight will allow the exploration of possible European policy options for the future.

II. INDIA AND THE NUCLEAR NON-PROLIFERATION REGIME

India's approach to the international nuclear non-proliferation regime has varied substantially over time and is generally linked to broader developments in its foreign and security policy. Originally, it was dominated by a high degree of idealism. Particularly under the leadership of Jawaharlal Nehru, India's first Prime Minister from 1947 to 1964, India was characterized by a general aversion to nuclear weapons and its outspoken criticism of the nuclear rivalry between the Soviet Union and the United States. It was also the first country to propose a ban on nuclear tests in 1954 and supported the entry-into-force of the Partial Test Ban Treaty nine years later. India's own nuclear activity was confined largely to research on nuclear energy, which it saw as crucial element of its economic development. In this context, it became

one of the founding members of the IAEA.³ However, the first nuclear test by China, India's regional rival, and Nehru's death in 1964 encouraged debates about India's nuclear policy. In the context of a broader reorientation of Indian foreign policies towards a more outspoken *realpolitik*, the development of Indian nuclear weapons became a real option.⁴ Furthermore, India refused to sign and ratify the key treaty of the international nuclear non-proliferation regime, the 1968 Non-Proliferation Treaty (NPT), even though it contributed actively to the debates about the treaty. Its main criticism of the NPT—and the regime that was subsequently built around it—was the discrimination between nuclear 'haves' and 'have-nots' as enshrined in Article IX, which recognizes only those nuclear-weapon states—China, France, the Soviet Union, the United Kingdom and the USA—that exploded a nuclear device prior to 1 January 1967. In other words, India saw a problem of sovereign inequality or, in abstract terms, of justice within the NPT.⁵

Interestingly, India was far from alone in its criticism of the emerging nuclear non-proliferation regime. The continental European powers, in particular France, Germany and Italy, were also highly critical of the regime, albeit from different perspectives, as France turned into a nuclear weapon state in 1960 and the other two nations chose not to pass the nuclear-weapon threshold.⁶ It was only in 1975 that Germany and Italy ratified the NPT, and France acceded only in 1992.⁷ However, these European states have since integrated fully within the nuclear non-proliferation regime and have become its staunchest defenders. In contrast, India followed a radically different path. First, in 1974, it conducted its first nuclear explosion,

³ Perkovich, G., *India's Nuclear Bomb: the Impact on Global Proliferation* (University of California Press: Berkeley, 1999).

⁴ Ganguly, S., 'India's pathway to Pokhran II: the prospects and sources of New Delhi's nuclear weapons program', *International Security*, vol. 23, no. 4 (1999), pp. 149–61.

⁵ Fey, M., et al., 'Established and rising great powers: the United States, Russia, China, and India', eds H. Müller and C. Wunderlich, *Norm Dynamics in Multilateral Arms Control: Interests, Conflicts, and Justice* (University of Georgia Press: Athens, GA, 2013), pp. 191–94.

⁶ Schrafstetter, S. and Twigge, S., *Avoiding Armageddon: Europe, the United States, and the Struggle for Nuclear Non-Proliferation, 1945–1970* (Praeger: Westport, CT, 2004).

⁷ Germany and Italy ratified under the condition that a common European nuclear option be kept open. Häckel, E., *Die Bundesrepublik Deutschland und der Atomwaffensperrvertrag: Rückblick und Ausblick* [The Federal Republic of Germany and the Nuclear Non-Proliferation Treaty: retrospective view and outlook], *Arbeitspapiere zur Internationalen Politik* 53 (Bonn: Deutsche Gesellschaft für Auswärtige Politik e.V.), p. 81.

² Allen, D., 'The EU and India: strategic partners but not a strategic partnership', eds T. Christiansen, E. Kirchner and P. B. Murray, *The Palgrave Handbook of EU–Asia Relations* (Palgrave Macmillan: Basingstoke, 2013), pp. 571–86.

officially describing it as a peaceful nuclear explosion, although it is generally considered to have been a nuclear-weapon test. Crucially, with this test India became the first de facto nuclear weapon state that is not recognized by the NPT. At the same time, it was cut off from all types of nuclear trade and became virtually a nuclear pariah state. India's actions also led to the creation of what came to be known as the NSG, which has tried to control nuclear exports in order to prevent the further proliferation of nuclear weapons.⁸ Second, India has developed an alternative vision for another international nuclear regime based on sovereign equality between all states and the gradual elimination of all nuclear weapons. One of the most well-known formulations of this vision is the so-called Rajiv Gandhi Action Plan, which the Indian Prime Minister, Rajiv Gandhi, presented to the United Nations General Assembly in 1988.⁹ Crucially, however, India's commitment to nuclear disarmament is based on simultaneous disarmament by all nuclear-weapon states and does not entail the possibility of unilateral disarmament.

In the 1990s India remained largely outside the existing international nuclear non-proliferation regime. Most notably, it failed to sign and ratify the 1996 Comprehensive Nuclear-Test-Ban Treaty (CTBT), even though—almost ironically—it was the first state to propose a ban on nuclear testing back in 1954. When the Hindu nationalist Bharatiya Janata Party came to power in 1998, India conducted its first official nuclear-weapon tests the same year and formally declared itself a nuclear-weapon state.¹⁰ Only a few days later, Pakistan, India's arch-rival, responded by conducting its first nuclear-weapon tests, thus becoming another nuclear-weapon state that is not recognized by the NPT. This was particularly problematic as all future conflicts between the two countries from then on pitched two nuclear-weapon states against each other, as happened during the 1999 Kargil War in the mountainous northern Indo-Pakistani border area. Not surprisingly, the Indian and Pakistani tests were harshly criticized by the international community and grave concern was expressed in UN Security Council Resolution 1172 'at the challenge that the nuclear tests conducted by India and then by Pakistan constitute to

international efforts aimed at strengthening the global regime of non-proliferation of nuclear weapons'.¹¹

However, the tests in 1998 were not only the starting point of a more pronounced nuclear rivalry in South Asia, but also a turning point in India's approach to the nuclear non-proliferation regime. Whereas India had been one of the most persistent opponents of the nuclear regime in its entirety, it began to advocate for its gradual inclusion in the regime as a nuclear-weapon state. This new approach reflected broader shifts in Indian foreign policy since the end of the cold war, according to which liberal ideas about prosperity, economic progress and international interdependence came to dominate classical ideas of idealism, realpolitik and, more recently, Hindu nationalism.¹² The result has been a much more pragmatic foreign policy, in which India has become a more collaborative player in the international system and a more cooperative negotiator in international institutions.¹³ In the nuclear sphere, this has found its expression in the increasing emphasis on India being a responsible nuclear power.¹⁴ Indian policymakers have highlighted, in particular, that India has never contributed to the nuclear proliferation of other states and, technically, has never violated any of the treaties or agreements of the international nuclear non-proliferation regime that it has signed up to. India also has an explicit no-first-use nuclear-weapon policy and has shown notable restraint—albeit also due to technical and financial difficulties—in the production of nuclear warheads.¹⁵ However, it should be noted that this does not negate the fact that India has remained largely outside the existing political and legal frameworks in the nuclear field, and that its acquisition of nuclear weapons was highly problematic for the nuclear regime.

Nevertheless, the USA has become a powerful partner for India, and has shown itself to be willing to take a much more pragmatic stance on India's acceptance within the existing nuclear non-

⁸ Nuclear Suppliers Group, 'History', [n.d.], <<http://www.nuclearsuppliersgroup.org/en/history1>>.

⁹ Fey et al. (note 5), pp. 189–90; and Ganguly (note 4), p. 164.

¹⁰ Ganguly (note 4), pp. 170–75.

¹¹ United Nations Security Council Resolution 1172 (1998), 6 June 1998, p. 1.

¹² Sagar, R., 'State of mind: what kind of power will India become?', *International Affairs*, vol. 85, no. 4 (2009), pp. 801–16.

¹³ Mukherjee, R. and Malone, D. M., 'Indian foreign policy and contemporary security challenges', *International Affairs*, vol. 87, no. 1 (2011), pp. 87–104.

¹⁴ Sasikumar, K., 'India's emergence as a "responsible" nuclear power', *International Journal*, vol. 62, no. 4, (2007), pp. 825–44.

¹⁵ It is estimated that India has around 120 operational warheads. Kristensen, H. M. and Norris, R. S., 'Global nuclear weapons inventories, 1945–2013', *Bulletin of the Atomic Scientists*, vol. 69, no. 5 (2013), p. 76.

proliferation regime without the need to give up its nuclear weapons. Under the administration of US President Bill Clinton, India and the USA intensified their bilateral relations and began to normalize a historically strained relationship. Opening up nuclear trade between the two countries, which had been suspended since India's nuclear test in 1974, formed one of the cornerstones of this rapprochement.¹⁶ This process culminated in the 2005 India–US joint statement, in which US President George W. Bush promised to 'work with friends and allies to adjust international regimes to enable full civil nuclear energy cooperation and trade with India'.¹⁷ In other words, the statement effectively foresaw the end of India's nuclear isolation. As one scholar has argued:

The US–India pact is recognition by the US of the rising global profile of India and an attempt to carve out a strategic partnership with a nation with which it shares not only a range of significant interests but also a whole range of political and cultural values.¹⁸

Although proponents of the India–US nuclear rapprochement brought out the 'heavy artillery' in the ensuing public debate—from India's strategic importance as a counterbalance to China, to India's need for 'clean' nuclear energy for its economic development—key constituents of the US political system were still not convinced of the need for an India–US nuclear agreement. As such a nuclear trade agreement—a so-called 123 Agreement—also requires congressional approval, the US Congress became the main battleground between supporters and opponents.¹⁹ In this respect, the most controversial issue was the need to make India an exception to some of the requirements of a traditional 123 Agreement, such as full-scope safeguards. Ultimately, the US Congress adopted the so-called Hyde Act of 2006 that allowed the US President to waive 123 Agreement

requirements under certain conditions. Apart from a large number of conditions regarding political procedures in the USA and concrete measures to be taken by India, the US Congress demanded that India conclude a safeguards agreement with the IAEA for its civilian nuclear programme (to be separated from its military programme) and that the NSG allow nuclear exports to India by adapting its export guidelines.²⁰ It is in this context that the two major issues in the debate about India's integration into the nuclear non-proliferation regime emerged in the second half of the 2000s: (a) the NSG waiver; and (b) a special IAEA safeguards agreement.

US diplomats made relentless efforts to turn these issues into reality.²¹ However, they encountered stiff opposition from a number of IAEA and NSG member states that believed that nuclear trade should only be available for those states that are integral members of the key treaties and agreements of the international nuclear non-proliferation regime, in particular the NPT. Therefore, it was not until August 2008—three years after the India–US joint statement—that the IAEA adopted a special Indian safeguards agreement. The agreement put India's civilian installations under IAEA control but left out the installations that were deemed to play a military role—a privilege usually reserved for the five nuclear-weapon states recognized by the NPT (although it remains unclear whether certain installations, in particular of the Indian nuclear fuel cycle, can be classified as only civilian or military). Shortly afterwards, the NSG approved a special waiver for India, which for the first time allowed nuclear trade with a state that developed nuclear weapons outside the nuclear non-proliferation regime and that has never signed or ratified the NPT. In this way, in principle, India gained two important privileges of official nuclear-weapon states without significant implications for its own nuclear-weapon programme: (a) the separation of nuclear installations in terms of safeguards; and (b) the (potential) opening up of nuclear trade. In other words, India was treated, for the first time, as if it were an official nuclear-weapon state, even though it developed its nuclear weapons in contravention of the existing regime framework. Arguably, this political recognition as both a nuclear-

¹⁶ Pant, H. V., 'The US–India nuclear deal: the beginning of a beautiful relationship?', *Cambridge Review of International Affairs*, vol. 20, no. 3 (2007), pp. 455–72.

¹⁷ The White House, 'Joint statement between President George W. Bush and Prime Minister Manmohan Singh', Press release, 18 July 2005, <<http://georgewbush-whitehouse.archives.gov/news/releases/2005/07/20050718-6.html>>.

¹⁸ Pant (note 16), p. 469.

¹⁹ Office of the General Counsel, US Nuclear Regulatory Commission, Atomic Energy Act of 1954, sec. 123, <<http://www.nrc.gov/about-nrc/governing-laws.html>>.

²⁰ Weiss, L., 'US–India nuclear cooperation', *The Nonproliferation Review*, vol. 14, no. 3 (2007), pp. 439–44.

²¹ Kerr, P. K., *US Nuclear Cooperation with India: Issues for Congress*, Congressional Research Service Report for Congress, RL33016, 26 June 2012, <<http://www.fas.org/sgp/crs/nuke/RL33016.pdf>>.

weapon state and a global power was a key motivation for India.²² As one analyst remarked: 'India seems to be eating its cake and having it too,' pointing to the fact that India receives the benefits of a nuclear weapon state without the need to disarm.²³

This does not mean that India offered no concessions at all. It did offer a unilateral nuclear-test moratorium, a commitment to the negotiation of a fissile material cut-off treaty (FMCT) and the harmonization of its export controls in line with the guidelines of the NSG and the Missile Technology Control Regime. However, these concessions have hardly settled India's complicated relationship with the nuclear non-proliferation regime. There are still a number of outstanding issues that, sooner or later, will dominate the non-proliferation agenda. In the short term, one of the most prominent issues will be India's full membership in the NSG.²⁴ Likewise, India's policies in the main crises of the non-proliferation regime—regarding the nuclear programmes of Iran and North Korea—will play a role. In the medium term, India's commitment to the negotiation of an FMCT will also be an important topic for debate. A final outstanding issue is the signing and ratification of the CTBT. In sum, as a non-member of all institutions and agreements of the non-proliferation regime—with the exception of the IAEA—India's push for further integration within the regime will certainly provoke numerous debates in years to come.

III. THE EUROPEAN UNION'S INDIAN DILEMMA

The international nuclear non-proliferation regime has been the focal point of the EU's emerging non-proliferation policy, both rhetorically and in practice. The EU's key documents in the area of non-proliferation consistently highlight the importance of the regime in the fight against the proliferation of nuclear weapons, with 'effective multilateralism' being the common European rallying call—'effective' meaning universal participation and

full implementation.²⁵ The WMD Strategy specifically points out that 'effective multilateralism is the cornerstone of the European strategy for combating proliferation of WMD' and the NPT is the key treaty that is repeatedly referred to.²⁶ It comes, therefore, as no surprise that all EU member states are also members of virtually all key institutions and agreements in the area of nuclear non-proliferation.²⁷ The EU and its member states have also made significant contributions to the development of new instruments of the broader regime, such as the Hague Code of Conduct against Ballistic Missile Proliferation. Moreover, they have actively supported the work of a number of international non-proliferation institutions. The EU has adopted over half-a-dozen joint actions and, since the 2009 Lisbon Treaty, European Council decisions have provided financial support worth more than €70 million to institutions such as the IAEA and the Preparatory Commission for the CTBT Organization. In this way, the EU has strengthened the treaty verification capabilities of the CTBT, improved the nuclear security work of the IAEA, contributed to the strengthening of IAEA safeguards and promoted the accession to international non-proliferation agreements through workshops with non-members.²⁸

The EU's firm commitment to the existing formal non-proliferation regime is different from India's stance in many respects. Apart from its historical membership in the IAEA, India has not joined any of the institutions or agreements that are generally considered key elements of the regime. It has also refused to sign any kind of political agreement that would entail the EU's so-called non-proliferation clause, the EU's key instrument to promote universal membership in the regime, and in particular its core element, the NPT.²⁹ In fact, India's rejection of the

²² Paul, T. V. and Shankar, M., 'Why the US–India nuclear accord is a good deal', *Survival*, vol. 49, no. 4 (2007), pp. 112–14.

²³ Narlikar, A., 'Peculiar chauvinism or strategic calculation? Explaining the negotiating strategy of a rising India', *International Affairs*, vol. 82, no. 1 (2006), p. 76.

²⁴ 'India's quest for atomic trade group membership faces hurdles: expert', *Global Security Newswire*, 28 July 2014, <<http://www.nti.org/gsn/article/indias-pursuit-nuclear-suppliers-group-membership-faces-many-hurdles-expert/>>.

²⁵ For an overview of the main documents see European External Action Service, 'Main documents', <http://eeas.europa.eu/non-proliferation-and-disarmament/documentation/documents/index_en.htm>.

²⁶ Council of the European Union, 'Fight against the proliferation of weapons of mass destruction: EU Strategy against Proliferation of Weapons of Mass Destruction', 15708/03, 10 Dec. 2003, <http://europa.eu/legislation_summaries/foreign_and_security_policy/cfsp_and_esdp_implementation/133234_en.htm>.

²⁷ For minor exceptions see Kienzle and Vestergaard (note 1), p. 376.

²⁸ Kienzle, B., 'A European contribution to non-proliferation? The EU WMD Strategy at ten', *International Affairs*, vol. 89, no. 5 (2013), pp. 1143–59.

²⁹ The clause was adopted by the EU in 2003 and must be included in the EU's so-called mixed agreements with third countries. It consists of two parts: the first is binding for the contracting parties and refers to the existing obligations under international non-proliferation agreements;

clause was an important blow to the EU's efforts to deal with difficult cases in the non-proliferation regime. The crux of the matter is the NPT itself. Since the treaty is very specific regarding which states can be recognized as nuclear weapon states—and India-specific reforms of the treaty can be excluded as completely unrealistic—India can never join as a nuclear-weapon state, even if it wanted to, as suggested a few years ago by the Indian Prime Minister, Manmohan Singh.³⁰ At the same time, India's unilateral nuclear disarmament to join the NPT is equally utopian.³¹ The only way out is a new key treaty that supersedes the NPT—for instance, a nuclear weapons convention similar to the Chemical Weapons Convention that outlaws the development, production, acquisition, stockpiling, retention, transfer or use of chemical weapons. However, such a convention is still confined to the realm of pipe dreams. In short, India will stay outside the main framework of the international nuclear non-proliferation regime for the foreseeable future.

This has important implications for the two nuclear export control regimes, the Zangger Committee and the NSG.³² Traditionally, the informal Zangger Committee has been directly linked to the NPT, in particular the interpretation of export control provisions entailed in Article III. Consequently, Indian participation or even membership is a non-issue. Moreover, the NSG has taken over many of the Zangger Committee's responsibilities over the years, thus turning into the principal nuclear export control group. It is regarding this group that India has played, and will play in the future, the most controversial role. First, since the 1992 NSG Plenary in Warsaw, one of the key requirements to allow nuclear exports is a comprehensive safeguards agreement between the IAEA and the recipient state. However, these agreements have been designed for non-nuclear-weapon states. Consequently, NSG members had to

waive this requirement when they opened up nuclear trade with India in 2008. Yet, as this is a privilege that has not been granted to any of the unrecognized nuclear-weapon states, the waiver was a very controversial move, as exemplified by the divisions on the issue among EU member states. Second, with the support of the USA, the UK and other states, India has also put its full membership in the NSG on the agenda. Although NPT membership is not a formal requirement for joining the NSG, India would be the first member that is a nuclear-weapon state not recognized by the NPT. Ironically, the NSG was also originally set up as a reaction to India's first nuclear test (see above). So, India's membership is, once more, a highly controversial issue.

The one treaty that India could join without any major legal repercussions is the CTBT. There have even been tentative indications that it might be willing to join under certain circumstances, but so far it has officially rejected this idea. India criticizes, in particular, potential loopholes in the treaty, for example the possibility to simulate nuclear-test explosions on a computer. As these kinds of loopholes mainly benefit the established nuclear-weapon states with advanced technological capabilities, India argues that the CTBT still discriminates between different types of state.³³ CTBT membership would also legally cement India's hitherto voluntary nuclear-test moratorium. In the future, India's commitment to the negotiation of an FMCT may also play a more prominent role. Although the substantive negotiations of such a treaty in the UN Conference on Disarmament in Geneva have stalled for a long time, the resumption of the negotiations at some point in the future will reveal India's real commitment. Formally, its commitment appears to be strong:

India's support for FMCT negotiations in the CD is consistent with our interest in strengthening the global non-proliferation regime that would add a measure of strategic predictability and a baseline for future global nuclear disarmament efforts.³⁴

However, there are indicators that question the extent to which India is willing to compromise to join an FMCT. In contrast to the official nuclear-weapon

the second is largely declaratory and promotes the ratification of non-proliferation agreements by the contracting parties. Quille, G., 'The EU and non-proliferation of weapons of mass destruction', eds S. Biscop and R. G. Whitman, *The Routledge Handbook of European Security* (Routledge: London, 2013), p. 240.

³⁰ Fidler, D. P. and Ganguly, S., 'India wants to join the Non-Proliferation Treaty as a weapon state', *YaleGlobal Online*, 27 Jan. 2010, <<http://yaleglobal.yale.edu/content/india-wants-join-non-proliferation-treaty>>.

³¹ Nayan, R., 'The NPT and India: accommodating the exception', *Strategic Analysis*, vol. 34, no. 2 (2010), pp. 309–21.

³² Nayan, R., 'Integrating India with the global export controls system: challenges ahead', *Strategic Analysis*, vol. 35, no. 3 (2011), pp. 439–51.

³³ See e.g. Ganguly (note 4), pp. 169–70.

³⁴ UN Office at Geneva, 'Statement by India on FMCT in the CD Plenary', 12 Mar. 2013.

states, it has still not declared a moratorium on its own fissile material production. It also emphasizes the need for any treaty to be in line with its national security interests. Furthermore, there are a number of controversial issues that may not be resolved during the substantive negotiations of an FMCT, for example, establishing a link between such a treaty and the fight against nuclear terrorism, which India rejects.³⁵

From a European perspective, these developments have brought about a highly problematic Indian strategy of selective integration within the different institutions and agreements of the international nuclear non-proliferation regime. That is, India is eager to join the export control groups, where it can expect important gains in economic terms, but it is much more wary about joining other agreements such as the CTBT that impose political conditions on member states. This has led to prolonged debates between those states that are generally in favour of India's strategy and those that are largely opposed. Although states including the USA, Russia, Brazil, China and New Zealand have expressed varying positions and opinions, the EU can be seen as a microcosm of the debates about India's relationship with the nuclear non-proliferation regime. In abstract terms, there are at least three major groups of member states: (a) the firm supporters of India, above all France and the UK; (b) the neutral states that do not have an outspoken policy on India and the non-proliferation regime, either because it falls outside the priorities of their foreign and security policy (e.g. Luxembourg) or because it is internally divided on the issue (e.g. Germany); and (c) those states that are much more sceptical, in particular Austria and Ireland. The dilemma for the EU as a whole is that all sides use very convincing, but certainly not compatible, arguments. In other words, there is no 'silver bullet' that will solve the problem of India's integration within the non-proliferation regime.

The supporters of India's integration within the non-proliferation regime emphasize India's growing power.³⁶ Although it is arguably still too early to claim that it is a 'great power', India's political, economic and cultural weight has turned it into a formidable

international player that is increasingly difficult to ignore.³⁷ If such a rising actor remains unsatisfied outside important international regimes, its growing power may weaken the stability of the regimes themselves. Unlike other rising powers (such as Brazil, Russia, China and South Africa) India has never been a part of the non-proliferation regime, and it has means at its disposal that make the proper functioning of the regime difficult—as shown by its nuclear tests in 1973 and 1998. As T. V. Paul and Mahesh Shankar argue, 'an unsatisfied growing power does not augur well for the stability of the system, and such a state is likely to try its utmost to undermine or provoke restructuring of the regime'.³⁸ Likewise, supporters can point to India's own arguments that it is an exceptional case in comparison with the other nuclear-weapon states outside the nuclear non-proliferation regime. Apart from being a rising power, India is an established democracy with a consistent track record of control over its nuclear installations, material and technology. In other words, it has behaved as responsibly as could be expected from a regular member of the regime and should, therefore, be included. Furthermore, India's inclusion in the regime would raise the costs of non-compliance with key regime elements in the future. For example, if it chooses to conduct another nuclear test, India might once again lose its access to international nuclear trade.

The sceptical states highlight the fact that it is not possible to integrate India within the nuclear non-proliferation regime without breaking the regime's basic rules, enshrined in particular in the NPT.³⁹ In essence, the NPT is a big trade-off whereby the non-nuclear-weapon states give up their nuclear-weapon options and, in turn, the nuclear-weapon states guarantee their right to civilian nuclear energy and promise to initiate nuclear disarmament processes in the long-term. Any deviation from this trade-off could endanger the delicate balance on which the NPT is based. In other words, if India is included in key elements of the non-proliferation regime without giving up its nuclear weapons—and reaps the corresponding benefits, for example, in terms of nuclear trade—non-nuclear-weapon states may be encouraged to develop their own nuclear-weapon programmes, as they can expect, over time, the acceptance of their

³⁵ Nayan, R., 'India and the Fissile Material Cut-Off Treaty: policy options', *Strategic Analysis*, vol. 35, no. 1 (2010), pp. 38–40.

³⁶ See e.g. Paul and Shankar (note 23), pp. 111–22; and Rauch, C., 'Hushed hope: India, the nuclear deal, and nonproliferation', Peace Research Institute Frankfurt, Working Paper no. 7 (2010), <<http://www.nonproliferation.eu/documents/other/carstenrauchandhushedhope4ea15de902194.pdf>>.

³⁷ Narlikar, A., 'Is India a responsible great power?', *Third World Quarterly*, vol. 32, no. 9 (2011), p. 1607; and Perkovich, G., 'Is India a major power?', *The Washington Quarterly*, vol. 27, no. 1 (2003), pp. 129–44.

³⁸ Paul and Shankar (note 23), p. 111.

³⁹ See Weiss (note 21), pp. 429–57.

(potential) nuclear-weapon status by other states. It may also increase the general dissatisfaction with the existing regime—and how it has developed over the past 20 years—among states such as Brazil or Egypt. The negotiations with Iran are another case in point. Iran frequently brings up the India card in the negotiations over its nuclear programme—which involve France, Germany and the UK, and the 3 non-EU members of the UN Security Council, China, Russia and the USA (the E3+3)—arguing that the concessions to India weaken the consistency of the Western commitment to the integrity of the non-proliferation regime.⁴⁰ Among states outside the regime, Pakistan's nuclear policies may become more confrontational as it grows dissatisfied with the growing acceptance of its rival in the non-proliferation regime. This is already a stumbling block for the negotiation of the FMCT in the UN Conference on Disarmament, and would put additional pressure on EU member states to find consensus regarding a country where common positions have proven to be rather elusive (e.g. regarding the issue of China–Pakistan civil nuclear cooperation within the framework of the NSG).

All in all, the EU is confronted with two difficult choices. On the one hand, if India remains outside the regime, the effectiveness of the non-proliferation regime may be compromised by the exclusion of a key actor. Especially in the long term, India may conclude that it is no longer necessary to play by the rules of a regime from which it is continually excluded. On the other hand, if India is integrated, the regime's basic trade-off may be thrown off balance with further unpredictable consequences. In other words, the EU is faced with a dilemma in its implementation of 'effective multilateralism': between strictly adhering to the existing non-proliferation principles and the need to integrate an emerging power within multilateral structures.

IV. EUROPEAN RESPONSES TO INDIA'S CHALLENGE

The EU's non-proliferation policy towards India forms part of its broader relations with India. Famously, India was one of the first countries to establish diplomatic relations with the European Economic Community in the early 1960s. Yet, despite these promising

beginnings, formal EU–India relations have progressed very slowly. Most notably, today these relations are still governed by the 1994 Cooperation Agreement between the European Community and the Republic of India on partnership and development, basically a standard economic cooperation agreement. In fact, the bulk of EU–India relations are economic rather than political.

Since 2000 the EU has tried to boost the relationship with regular annual summits between the EU and India, in which the two parties exchange views at the highest level on different aspects of mutual concern, including non-proliferation. At the 2004 EU–India Summit in The Hague, the EU–India Strategic Partnership was launched in order to upgrade existing commercial relations with a more explicit political dimension in the area of peace and security and intensified ties in research, technology and culture. The following year, the two parties adopted the so-called Joint Action Plan to operationalize the Strategic Partnership. However, progress has been modest at best. Especially tangible outcomes in the realm of international security have been rather a matter of European wishful thinking than facts on the ground. Not surprisingly, most analysts have been very critical of the partnership, with one concluding that it 'mainly remained symbolic'.⁴¹ A notable failure was the refusal of India to negotiate a formal bilateral political agreement with the EU, which would include the EU's conditionality clauses, among others on non-proliferation.

The cumbersome interaction between India and the EU in security matters is a reflection of the perceived mismatch of two very distinct foreign and security policy actors. In Indian policy circles, the visibility of the EU as an international actor is generally low.⁴² It is seen, if at all, as a trade bloc without a significant foreign and security policy of its own. Most notably, the EU is not believed to be in a position to offer India what it arguably desires most in international affairs, namely the status and prestige of a great power—for instance, in the form of a permanent seat on the UN

⁴¹ Khandekar, G., 'The EU and India: a loveless arranged marriage', FRIDE Policy Brief no. 90, Aug. 2011, <http://www.fride.org/download/pb_90_eu_and_india.pdf>; Lisbonne-de Vergeron, K., *Contemporary Indian Views of Europe* (Chatham House: London, 2006); and Keukeleire, S. and Bruyninckx, H., 'The European Union, the BRICs, and the emerging new world order', eds C. Hill and M. Smith, *International Relations and the European Union*, 2nd ed. (Oxford University Press: Oxford, 2011), p. 388.

⁴² Jain, R. K. and Pandey, S., 'The European Union in the eyes of India', *Asia Europe Journal*, vol. 8, no. 2 (2010), p. 207.

⁴⁰ European External Action Service official, Interview with author, 7 May 2013.

Security Council.⁴³ The EU's soft-power approach to international affairs is perceived by India as a way to cement the status quo.⁴⁴ Moreover, the EU's emerging relationship with China, India's Asian rival, has incurred India's displeasure.⁴⁵ As a major survey of Indian policymakers has pointed out: 'In Indian diplomatic circles, there is a growing feeling that the European Union has chosen to favour totalitarian China over its democratic counterpart'.⁴⁶ For their part, European policymakers are displeased by what they consider to be India's overly strong focus on hard power in international affairs and the preference it accordingly gives to the USA.⁴⁷ Even more important from the perspective of the non-proliferation regime are the different visions that India and the EU have of multilateralism and its future. In line with other rising powers, India emphasizes the need for more representation and, consequently, more power for the larger countries in the Global South, whereas the EU is more concerned with the functioning of existing international institutions. In addition, European policymakers are particularly irritated by India's traditionally intransigent negotiation style in a large number of international settings. As a former diplomat has pointed out:

Off the record, EU officials point out that India continues to be their most difficult strategic partner. In the eyes of many European officials, India has acquired a reputation of being an inflexible negotiator and a potential spoiler, unwilling to yield and adapt its positions where compromise seems possible.⁴⁸

In recent years, interactions between the EU and India have focused on the one area where the relations have been most intense: commerce and trade, in particular, the negotiation of a so-called investment and free-trade agreement (FTA), essentially a bilateral trade liberalization agreement. Trade between the EU and India has steadily increased and today the EU is India's largest trading partner, even though its

overall share has diminished recently.⁴⁹ Consequently, most analysts concur that 'the driving force behind the India-EU relations has been, is, and will continue to be trade and commerce'.⁵⁰ Yet, even in this sphere progress has been slow. In the FTA negotiations, several deadlines have already passed and at present no agreement is in place.⁵¹

In sum, EU-India relations have been undermined by significant structural weaknesses, in particular the lack of formal and institutionalized relations, the lack of a common vision for multilateral relations in international affairs and a general lack of mutual understanding in foreign and security policy. It has been in this unfavourable context that EU non-proliferation policies towards India have developed.

The lack of common policies

From the outset, EU member states had great difficulty establishing common European non-proliferation policies on India. One expert has even gone so far as to argue that 'the EU has never engaged with India and Pakistan's nuclear issue in any meaningful way'.⁵² The EU's non-proliferation policies have certainly been rather timid. The most prominent case in this regard is the European reaction to the nuclear tests in India (and Pakistan) in 1998, which demonstrates how difficult it has been to arrive at common policies in some instances.⁵³ The EU's non-proliferation stance on the South Asian nuclear test crisis is best described as a typical example of what has been called weak and slow 'declaratory policies'. The only slightly more far-reaching action was the EU Common Position adopted months after the test, which foresaw EU support for confidence-building measures between India and

⁴⁹ Sachdeva, G., 'India and the European Union: broadening strategic partnership beyond economic linkages', *International Studies*, vol. 45, no. 4 (2008), pp. 341-467.

⁵⁰ Jain and Pandey (note 42), p. 194; Kavalski, E., 'Venus and the porcupine: assessing the European Union-India Strategic Partnership', *South Asian Survey*, vol. 15, no. 1 (2008), pp. 63-81; and Sachdeva (note 49), pp. 341-467.

⁵¹ Khorana, S. and Garcia, M., 'European Union-India trade negotiations: one step forward, one back?', *Journal of Common Market Studies*, vol. 51, no. 4 (2013), pp. 684-700.

⁵² Hassan, O., 'Securitizing proliferation, failing security governance: the European Union's role in India and Pakistan's nuclear rivalry', *Asia Europe Journal*, vol. 11, no. 2 (2013), p. 94.

⁵³ Grand, C., 'The European Union and the non-proliferation of nuclear weapons', Institute for Security Studies, Chaillot Paper no. 37, Jan. 2000, <<http://www.iss.europa.eu/uploads/media/cp037e.pdf>>; and Portela, C., *European Union Sanctions and Foreign Policy: When and Why Do They Work?* (Routledge: London, 2010).

⁴³ Allen (note 2).

⁴⁴ Lisbonne-de Vergeron (note 41), p. 9.

⁴⁵ Allen (note 2).

⁴⁶ Lisbonne-de Vergeron (note 41), p. 4.

⁴⁷ Von Muenchow-Pohl, B., 'India and Europe in a multipolar world', *The Carnegie Papers*, Carnegie Endowment for International Peace, May 2012, <http://carnegieendowment.org/files/india_europe.pdf>, pp. 21, 33-34.

⁴⁸ Von Muenchow-Pohl (note 47), p. 32.

Pakistan, for example, in the form of bilateral seminars and workshops, technical support for improved nuclear export controls, and better links with European think tanks in the area of non-proliferation.⁵⁴ Despite these commendable policies, they hardly constituted a rapid and forceful response. Similarly, the EU response to the 1999 Kargil War was limited to formal declarations in which it urged India and Pakistan to 'show maximum restraint and resume the dialogue in accordance with bilateral commitments'.⁵⁵ In the years since, even the EU's declaratory policy has all but disappeared. After one last Presidency Declaration condemning India's test of ballistic missiles in January 2002, India has largely fallen outside the EU's non-proliferation radar.

The absence of India in the EU's non-proliferation policy has been particularly blatant in the EU's strategic documents developed after 2001. Neither the 2003 WMD Strategy nor the 2008 New Lines for Action specifically mentions India. Not surprisingly, little has changed regarding the 2004 Strategic Partnership and the corresponding Joint Action Plan. Apart from 'a bilateral India-EU Security Dialogue at Senior Official level, which will include regular consultations on global and regional security issues, disarmament and nonproliferation' and has led to an 'exchange of views' between the EU's Personal Representative for non-proliferation and Indian authorities, the EU's and India's non-proliferation stances have not converged.⁵⁶ Crucially, whereas the EU sees the NPT and the CTBT as fundamental pillars of the international non-proliferation order, India rejects the logic behind the treaties and refuses to sign them. Usually the EU urges India to sign and ratify treaties such as the NPT but, according to R. K. Jain, one of the few Indian EU experts, 'No one takes them [the EU] seriously'.⁵⁷ Consequently, the non-proliferation dialogue with India focuses on

uncontroversial issues in fields such as nuclear export controls or, at least, avoids any type of confrontation.

What is even more important is that the EU has given up any discussions on the inclusion of its landmark non-proliferation clause in a bilateral agreement with India.⁵⁸ In its most basic form, this clause would have introduced a binding element that commits the contracting parties to observing existing non-proliferation agreements and a non-binding element urging the parties to sign and ratify the agreements to which they are not a state party. Yet, confronted with India's categorical rejection of any political conditionality clauses, EU member states and the European Commission refrained from pushing a comprehensive Partnership and Cooperation Agreement that legally requires the non-proliferation clause and decided to take the easy way forward, meaning the negotiation of an FTA that does not foresee the inclusion of the clause. Thus, they disregarded the unusually strong views on this issue expressed by the Personal Representative for non-proliferation, Annalisa Giannella, and her non-proliferation team in the Council of the EU. In a speech in 2007, for example, Giannella argued that

the nuclear deal with India has raised and continues to raise so many questions from the point of view of the credibility of the NPT. We have here a case where a country is rewarded without adhering to all the rules subscribed by the vast majority.⁵⁹

In what was seen as an important reversal of her approach to the European Parliament, Giannella also tried to involve the Parliament in her lobbying efforts on behalf of the non-proliferation clause in a future EU-India agreement. She specifically warned the European Parliament about a dangerous precedent of double standards, to which the Parliament responded with the 'Report on Non-Proliferation of Weapons of Mass Destruction: A Role for the European Parliament', declaring that it:

⁵⁴ Common Position 98/606/CFSP of 26 Oct. 1998 defined by the Council on the basis of Article J.2 of the Treaty on European Union on the European Union's contribution to the promotion of non-proliferation and confidence-building in the South Asian region, *Official Journal of the European Communities*, L290, 29 Oct. 1998.

⁵⁵ 'Declaration by the Presidency on behalf of the European Union on Kashmir', <http://europa.eu/rapid/press-release_PESC-99-64_en.htm>.

⁵⁶ Council of the European Union, 'The India-EU Strategic Partnership Joint Action Plan', 11984/05 (Presse 223), Brussels, 7 Sep. 2005, p. 6.

⁵⁷ Quoted in Hughes, K., 'More than trade relations?', *European Voice*, 7 Mar. 2007, <<http://www.europeVOICE.com/article/more-than-trade-relations/>>.

⁵⁸ Council Common Position 2003/805/CFSP of 17 Nov. 2003 on the universalisation and reinforcement of multilateral agreements in the field of non-proliferation of weapons of mass destruction and means of delivery, *Official Journal of the European Union*, L302, 20 Nov. 2003.

⁵⁹ Council of the European Union, 'Speech by Mrs Annalisa Giannella', Seminar on Nuclear Proliferation, Madrid, 6 Nov. 2007, <http://www.consilium.europa.eu/uedocs/cmsUpload/2007-11-06_Madrid.pdf>, p. 8.

Welcomes the inclusion of clauses concerning non-proliferation of WMD in the latest European Union agreements with third countries and action plans; points out, however, that such measures must be strictly implemented by all the Union's partners without exception; therefore calls for a speedy revision of existing agreements and action plans that lack such a clause.⁶⁰

However, these initiatives were ultimately to no avail.⁶¹

Finally, the most recent Indian policy challenges in the area of non-proliferation, in particular the special IAEA safeguards agreement and the NSG waiver for India, have hardly brought about a more forceful common European policy output. On the contrary, despite early attempts to forge a common European position on these issues in the Council Working Party on Non-Proliferation (CONOP), European member states could not agree and the discussions in CONOP have largely remained as information exchanges that have not led to a convergence of national positions.⁶² Since 2006 India has virtually disappeared from EU non-proliferation policies. Even the biannual progress reports of the WMD Strategy have barely mentioned India—let alone the India–US nuclear agreement.

National policies and the potential for more common policies

The lack of common EU policies has not precluded strong European responses in the form of national policies towards India. In fact, the period between the 1998 nuclear weapon tests and the adoption of the NSG waiver in India shows how both the supporters of India in the EU and the more sceptical countries implemented significant policies of their own, thus highlighting marked differences within the EU during this ten-year period. In the aftermath of the 1998 tests, some EU member states imposed harsh sanctions on India, for instance, suspending foreign development aid, whereas other member states were much more

reluctant to punish India in any substantive way.⁶³ France even criticized the sanctions that were imposed by the USA.⁶⁴ However, it is noteworthy that, just three years later, all EU member states had lifted their most substantive sanctions, suggesting that European divisions are not necessarily long-lasting.

In the following years, India—with the crucial support of the USA—stepped up its efforts to integrate more fully within the non-proliferation regime, using a sophisticated discourse that emphasized its role as a responsible nuclear power that has never contributed to nuclear proliferation in other states; the largest democracy in the developing world; and an emerging power to be reckoned with.⁶⁵ Supportive states easily bought into this discourse and began to reiterate and, thus, reinforce it. In this way, they helped to cement the view that India was a special case that deserved special treatment in the non-proliferation regime. In other words, supportive states smoothed the way for the NSG waiver and the special IAEA safeguards agreement in 2008. They also had substantial commercial interests in the waiver and the safeguards agreement, as these made nuclear trade with India possible in the first place (see table 1). In addition, support for the waiver and the safeguards agreement was also seen as way to secure lucrative commercial deals with India outside the nuclear field (e.g. in the aviation or military technology sectors).

Although the supportive countries (e.g. France and the UK) quickly won over numerous largely neutral countries in the EU and increased the support for the NSG waiver and the special IAEA safeguards agreement, a small number of countries (Austria and Ireland, in particular) resisted for over three years. It was only the combination of US and Indian pressure, the direct support of the IAEA Director General, Mohamed ElBaradei, the promise of an Indian test moratorium and the existence of an overwhelming number of states in favour that induced Austria, Ireland and other sceptical countries to agree not to oppose the waiver and the special safeguards agreement.⁶⁶ Given these very different European approaches to India in important non-proliferation matters, it does not

⁶⁰ European Parliament, 'European Parliament resolution on non-proliferation of weapons of mass destruction: a role for the European Parliament (2005/2139(INI))', P6_TA(2005)0439, Strasbourg, 17 Nov. 2005, <<http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P6-TA-2005-0439&language=EN>>.

⁶¹ European Parliament official and Member of Parliament, Interviews with author, 26–27 Jan. 2009.

⁶² European External Action Service official, Interview with author, 26 Mar. 2013.

⁶³ Portela (note 53).

⁶⁴ Hassan (note 52), p. 98.

⁶⁵ Sasikumar (note 14), pp. 825–44.

⁶⁶ Kienzle, B., 'The exception to the rule? The EU and India's challenge to the non-proliferation norm', *European Security* (forthcoming), <<http://www.tandfonline.com/doi/full/10.1080/09662839.2014.948863#VC0uJUNsLEs>>.

Table 1. Nuclear cooperation agreements between India and selected EU member states

Country	Agreement	Date
Czech Republic	Economic cooperation agreement signed, opening up cooperation in the construction of nuclear-power plants.	8 June 2010
France	Arrangement allowing India to import French nuclear fuel and technology.	14 Jan. 2010
	Framework contract worth €7 billion signed between Areva ^a and India.	6 Dec. 2010
United Kingdom	Joint Declaration on civilian nuclear cooperation.	15 Feb. 2010
	UK Government formally allows nuclear exports to India.	28 July 2010
	<i>The Times</i> reports the possible involvement of Serco ^b and Rolls-Royce ^b in the construction of the largest Indian nuclear-power plant.	21 Feb. 2011

^a French state-owned nuclear technology company.

^b British industrial company.

Sources: BBC Monitoring South Asia; Global Security Newswire; and *International Herald Tribune*.

come as a surprise that, as a study on the perceptions of Indian policymakers suggests, ‘for many Indians, Europe’s internal divisions impede its external clout and its ability to emerge as a credible entity in the international arena’.⁶⁷ At the same time, Indian policies also reinforce the divisions in Europe, as they always give preference to the development of their bilateral relations with European states, especially its main trading partners, Belgium, France, Germany, Italy, the Netherlands and the UK.⁶⁸

However, in the period 1998–2008, EU member states ultimately took very similar decisions on India in the area of non-proliferation, even though they may not have agreed on the substance. First, within three years no major European sanctions against India were left in place. Second, all EU countries accepted that a future EU–India agreement would not include the EU non-proliferation clause. Third, all EU member states accepted the NSG waiver and the special safeguards agreement for India. In short, there appears to be (unexploited) room for compromise and a common European approach to India that goes beyond the traditional declaratory policies. To this end, the sceptical countries would have to recognize their limited influence and open up to compromise much earlier. The other group of states, in turn, would have to take some of the previously outlined concerns of the sceptical countries more seriously and offer important concessions that would make a common European

approach possible at an early stage. For instance, during the debates about the NSG waiver, all EU member states should have pushed (from the outset) for tighter supervision of the implementation of India’s promises, such as the nuclear-test moratorium. This would make the European position in negotiations with India much stronger and would potentially strengthen the non-proliferation regime, as outlined below.

V. BEYOND 2008: OPTIONS FOR THE EUROPEAN UNION AND ITS MEMBER STATES

India is likely to remain a high-profile challenge to the nuclear non-proliferation regime in the foreseeable future and if the EU wants to be a credible actor in the field of non-proliferation it cannot eschew this issue. In the short term, the most pressing item on the agenda is the potential Indian membership in the NSG and possibly other export control groups.⁶⁹ As in the case of the NSG waiver, the main challenge is to integrate India within the NSG and, thus, the broader non-proliferation regime without quite breaking the regime’s fundamental rules. In essence, India would be the NSG’s first nuclear-weapon state member that is not recognized by the NPT. Although NPT ratification is not a formal requirement for NSG membership, Indian membership would reward an unrecognized nuclear-weapon state with the benefits and privileges of membership without the need to give up its nuclear

⁶⁷ Lisbonne-de Vergeron (note 41), p. 17.

⁶⁸ Khorana and Garcia (note 51), p. 686.

⁶⁹ ‘India’s quest for atomic trade group membership faces hurdles: expert’ (note 24).

weapons. This would set a potentially dangerous precedent for other (would-be) nuclear-weapon states and could, consequently, undermine the stability of the regime. At the same time, however, it can be difficult to continually resist the pressure from an important nuclear power like India wanting to join key institutions of the nuclear non-proliferation regime. In short, a remake of the debates and discussions about the NSG waiver between 2005 and 2008 will be on the non-proliferation agenda in the near future. Although a large number of actors will play a key role again, including major powers such as Brazil and China, also taking centre stage will be EU member states, which form more than half of the overall NSG membership. The main challenge for the EU will be to learn the right lessons from the divisions over the waiver and secure the best possible deal for the stability of the nuclear non-proliferation regime. This would include, in particular, more concrete Indian concessions in return for Indian NSG membership.

Given the complexity of the issues at stake, all actors should avoid maximalist positions and focus on ambitious but potentially achievable aims. On the one hand, the sceptical countries have to pragmatically accept that an actor like India cannot be excluded from the non-proliferation regime forever, especially if it is supported by major actors both inside and outside the EU, such as the UK and the USA. Initiatives such as on the humanitarian impacts of nuclear weapons, in which Austria—one of the key sceptical countries—is centrally involved, should remain broad forums for discussing nuclear disarmament rather than creating specific hurdles for India's inclusion in the non-proliferation regime.⁷⁰ On the other hand, the generally supportive countries have to accept that Indian membership should not be a sure-fire success for India. In other words, the ultimate aim should be Indian NSG membership in exchange for a number of Indian concessions that would substantially strengthen the non-proliferation regime. As has been pointed out above, pushing the issue of Indian accession to the NPT is likely to be counterproductive. As India will not agree to nuclear disarmament in order to join the NPT, over-advocating NPT membership will be perceived as unwelcome neo-colonial lecturing by Western countries. Likewise, endorsing Indian ideas of

integrating India within the NPT as a nuclear-weapon state is too controversial for EU member states.⁷¹ Therefore, it would be much more productive to push less problematic but still crucial issues on the non-proliferation agenda.

First, EU member states should seek a stronger Indian commitment to the end of nuclear testing than promised in its nuclear-test moratorium as part of the NSG waiver deal. In other words, India should be strongly encouraged to commit to signing and ratifying the CTBT—as all European states have done—in exchange for its further integration within the nuclear non-proliferation regime, in particular the NSG. Although India still objects to CTBT membership, it should be the ultimate price that it has to pay for reaping the benefits of further integration. In turn, the first unofficial nuclear-weapon state joining the CTBT would strengthen the emerging nuclear-test-ban norm and, indirectly, the disarmament pillar of the non-proliferation regime. In this way, India's further integration within the nuclear non-proliferation regime would still bend the non-proliferation principle underpinning the regime but would also reinforce the regime's often-neglected disarmament principle. Second, EU member states could seek a stronger and more specific Indian commitment to the negotiation of an FMCT, for example, in the form of a declaration endorsing such a treaty without excessive caveats. Although Pakistan remains a stumbling block to the negotiation of an FMCT in the UN Conference on Disarmament in Geneva, concrete Indian support for such a treaty would ensure that India does not hide behind Pakistani opposition and merely pay lip service to a treaty that it does not really want. The promise of a moratorium on fissile-material production could be an important step in this direction.

If EU member states agree on these objectives early on, their combined weight and negotiating power could induce India to give in and secure the best possible deal for the non-proliferation regime. Ideally, EU member states could adopt a Council decision outlining these objectives, either specifically addressing the Indian case or the issue of the integration of outliers within the nuclear non-proliferation regime in general. However, the stronger informal harmonization of individual national positions towards these objectives, especially in the relevant Council working group, is probably more realistic. This does not mean that

⁷⁰ Williams, H., 'Trust and distrust in the global nuclear community', Expert Comment, Chatham House, 11 Dec. 2014, <<http://www.chathamhouse.org/expert/comment/16475>>.

⁷¹ Fidler and Ganguly (note 30).

EU member states should make any future Indian integration within the non-proliferation regime conditional on these objectives. Given the commitment of some EU member states to Indian NSG membership, this is arguably already too late. But the objectives should be pursued more consistently and vigorously by all member states in formal negotiations—in particular the NSG discussions about Indian membership—and in the context of the security dialogue of the EU's strategic partnership with India. The debates about the NSG waiver have shown that the lack of a strong and ambitious European negotiating position can lead to suboptimal outcomes. Although all member states refrained from opposing the waiver, their divisions prevented any specific, major Indian concessions apart from the voluntary nuclear-test moratorium and the promise to harmonize Indian export controls according to NSG guidelines. A united front of EU member states could have pushed more strongly for more concrete concessions, such as effective mechanisms to scrutinize India's promises.

A more solid European position on India and non-proliferation could also form the basis for closer cooperation between the EU and India in areas such as export controls. The EU has already accumulated 10 years' experience in collaborating with partner countries on export controls, border security, knowledge management and other measures related to chemical, biological, radiological and nuclear (CBRN) issues, both in the form of outreach programmes carried out by the German Federal Office for Economic Affairs and Export Control and the recently launched Centres of Excellence.⁷² Based on this experience, the EU and India could organize common workshops and seminars in which experts could exchange best practices and lessons learnt in generally technical areas of export control implementation. They could also exchange, for a limited period, national export control experts who could learn *in situ* from the other side. After all, both India and the EU are highly complex political systems that could easily learn from each other and, thus, make their respective export control

mechanisms more effective. In the mid- to long-term future, India could even host one of the regional CBRN Centres of Excellence promoted by the EU. Such low-profile security measures could be the first step towards closer and more meaningful security cooperation between the EU and India. However, this would require the build-up of more trust between the EU and India, and the mutual recognition of each other as important security actors. It would also require some sort of working arrangement with Pakistan, which would certainly be highly controversial. However, at this point there is still no interest in such an initiative anywhere in South Asia.

In the short term, the development of the relationship between India and the EU in the area of non-proliferation will depend to a large degree on the policies of Indian Prime Minister Narendra Modi, who swept to power in the 2014 general elections. Although Modi's party, the Hindu nationalist Bharatiya Janata Party, was responsible for the first Indian nuclear-weapon tests when it came to power for the first time in 1998, pundits largely agree that—in line with liberal trade ideas—the new Indian Government will be dominated by economic issues and closer ties with other major countries to the east of India, in particular Australia and Japan. At the same time, it could also adopt more confrontational policies towards China, its major rival to the north. In the words of one analyst, 'Modi's foreign policy is likely to be a mix of nationalist-led geopolitics and expedient geoeconomics'.⁷³ The big unknown is the new administration's approach to Pakistan. Although there have been debates about a possible Indo-Pakistani rapprochement under Modi, this possibility is still confined to the realm of speculation.⁷⁴ However, beyond Pakistan, there are clear signs that India will continue its pragmatic nuclear policies and reap the benefits from the NSG waiver, for instance, by signing a nuclear cooperation agreement with Australia and pursuing a similar deal with Japan.⁷⁵ Therefore, the most likely scenario in the short term is certainly the continuation of the status quo based on liberal trade thinking, where India becomes more integrated into international nuclear

⁷² Grip, L., 'Assessing selected European Union external assistance and cooperation projects on WMD non-proliferation', Non-proliferation Papers no. 6, EU Non-proliferation Consortium, Nov. 2011, <<http://www.nonproliferation.eu/activities/activities.phpSIPRI> link>; and Mignone, A., 'The European Union's Chemical, Biological, Radiological and Nuclear Centres of Excellence Initiative', Non-proliferation Papers no. 28, EU Non-proliferation Consortium, June 2013, <<http://www.nonproliferation.eu/documents/nonproliferationpapers/aliciamignone51bb2aa04185e.pdf>>.

⁷³ Sahoo, N., 'Decoding Modi's foreign policy', Carnegie Endowment for International Peace, 23 Sep. 2014, <<http://carnegieendowment.org/2014/09/23/decoding-modi-s-foreign-policy/hpqy>>.

⁷⁴ Madan, T., 'A Modi foreign policy: the knowns and unknowns', Brookings, 16 May 2014, <<http://www.brookings.edu/blogs/up-front/posts/2014/05/16-india-modi-foreign-policy-madan>>.

⁷⁵ 'India's nuclear diplomacy: late addition', *The Economist*, 28 June 2014.

trade but does not join international non-proliferation agreements or institutions without relevance for nuclear trade. The renaissance of Indian idealism in the nuclear field is certainly not on the agenda. India's nuclear-weapon programme continues to enjoy widespread support across all sections of society. In other words, major steps such as the ratification of the CTBT have to be exogenously driven, reinforcing the need for a strong common European position on these issues.

In the mid- to long-term future, European governments also have to contemplate more challenging scenarios. It is possible to imagine, for example, that the Indian Government comes to perceive the need to conduct a new series of nuclear-weapon tests or dramatically increase the number of its nuclear warheads. It goes without saying that such a move would jeopardize India's bilateral nuclear agreements, in particular with the USA, and its increasing integration within the non-proliferation regime, and recast its role in nuclear matters for years to come. A basic common understanding among EU member states on nuclear issues in India would certainly help to better prepare Europe for any such eventuality and ensure the continuing stability of the non-proliferation regime.

VI. CONCLUSIONS

India's complex relationship with the international nuclear non-proliferation regime is an issue that defies easy solutions, but not one that can be ignored by the EU if it wants to stay at the forefront of international non-proliferation efforts. It also raises broader issues about the influence of emerging powers in international politics, the role of outliers in multilateralism and the future shape of the multilateral system. In short, the EU's approach will be crucial for the future of its common foreign and security policy. So far, however, the EU has lacked a common strategic vision for India in the non-proliferation regime. Although EU member states have often ultimately acted in the same way, they have done so for different reasons and without pursuing a common policy. In short, the outcomes of the EU's non-proliferation policy have largely come about by default and not by design. Consequently, both the supporting and the more sceptical EU member states should consider a common strategy towards India in the area of non-proliferation that is geared towards a well-balanced compromise between the

different arguments and leads to a more recognizable European profile in its India policy. As European governments have always acted in the same way at important junctions of EU–India relations in the nuclear field, there is certainly the potential for a common European strategy. Such a strategy can be a useful way out of the EU's Indian nuclear dilemma and make European multilateralism more effective in the broad sense of making the functioning of the nuclear non-proliferation regime more effective.

Indian NPT membership, as such, is certainly off the table. First, India will not disarm to join the treaty. Second, a reform of the NPT to admit India as a nuclear-weapon state is not an option. This does not mean that the EU should give up the aim of the universalization of the NPT, but it would be helpful in any nuclear-related dialogue or negotiation with India to refrain from focusing on Indian NPT membership as a non-nuclear weapon state. However, all EU member states should support the desire of India and many other key actors (e.g. the USA) to bring India closer to the existing nuclear non-proliferation regime. In this sense, the EU has to recognize that emerging powers that are also regime outliers will play a more constructive and cooperative international role if they are integrated within the regime and help to shape its future. In particular, Indian membership in the NSG and the Missile Technology Control Regime are desirable options in the next few years, even without India giving up its nuclear weapons.

This does not mean that the EU has to grant Indian membership freely in those elements of the non-proliferation regime where India mainly benefits from its participation. If all member states—and in particular countries such as France, Germany and the UK—work together, they can also push more strongly for Indian adhesion to non-proliferation agreements that entail important responsibilities for India without the need to give up its nuclear weapons. A first step could be a more concrete Indian commitment to the negotiation of an FMCT. But the crucial step must be the strengthening of India's commitment to the nuclear test moratorium, possibly even together with Pakistan as an EU-sponsored confidence-building measure between the two nations.

In this respect, the ultimate goal should be the signing and ratification of the CTBT. Although this treaty would put important restrictions on India's nuclear-weapon programme, the EU can emphasize that the two European nuclear-weapon states have

already taken this important step. At least India could offer a stronger commitment in principle to the CTBT objectives, similar to China and the USA, the two official nuclear-weapon states that have not yet ratified the treaty.⁷⁶ India needs to accept that more power comes with more responsibility in international politics, not least in the nuclear field. It should not have the cake and eat it too.

⁷⁶ See e.g. Zukang, S., 'The entry into force of the CTBT: the Chinese perspective', European Leadership Network, 27 Aug. 2014, <http://www.europeanleadershipnetwork.org/the-entry-into-force-of-the-ctbt-the-chinese-perspective_1790.html>.

ABBREVIATIONS

CBRN	Chemical, biological, radiological and nuclear
CONOP	Council Working Party on Non-Proliferation
CTBT	Comprehensive Nuclear-Test-Ban Treaty
EU	European Union
FMCT	Fissile material cut-off treaty
FTA	Free-trade agreement
IAEA	International Atomic Energy Agency
NPT	Non-Proliferation Treaty
NSG	Nuclear Suppliers Group
UN	United Nations
WMD	Weapons of Mass Destruction

A EUROPEAN NETWORK

In July 2010 the Council of the European Union decided to create a network bringing together foreign policy institutions and research centres from across the EU to encourage political and security-related dialogue and the long-term discussion of measures to combat the proliferation of weapons of mass destruction (WMD) and their delivery systems.

STRUCTURE

The EU Non-Proliferation Consortium is managed jointly by four institutes entrusted with the project, in close cooperation with the representative of the High Representative of the Union for Foreign Affairs and Security Policy. The four institutes are the Fondation pour la recherche stratégique (FRS) in Paris, the Peace Research Institute in Frankfurt (PRIF), the International Institute for Strategic Studies (IISS) in London, and Stockholm International Peace Research Institute (SIPRI). The Consortium began its work in January 2011 and forms the core of a wider network of European non-proliferation think tanks and research centres which will be closely associated with the activities of the Consortium.

MISSION

The main aim of the network of independent non-proliferation think tanks is to encourage discussion of measures to combat the proliferation of weapons of mass destruction and their delivery systems within civil society, particularly among experts, researchers and academics. The scope of activities shall also cover issues related to conventional weapons. The fruits of the network discussions can be submitted in the form of reports and recommendations to the responsible officials within the European Union.

It is expected that this network will support EU action to counter proliferation. To that end, the network can also establish cooperation with specialized institutions and research centres in third countries, in particular in those with which the EU is conducting specific non-proliferation dialogues.

<http://www.nonproliferation.eu>



FOUNDATION FOR STRATEGIC RESEARCH

FRS is an independent research centre and the leading French think tank on defence and security issues. Its team of experts in a variety of fields contributes to the strategic debate in France and abroad, and provides unique expertise across the board of defence and security studies.

<http://www.frstrategie.org>



PEACE RESEARCH INSTITUTE IN FRANKFURT

PRIF is the largest as well as the oldest peace research institute in Germany. PRIF's work is directed towards carrying out research on peace and conflict, with a special emphasis on issues of arms control, non-proliferation and disarmament.

<http://www.hsfk.de>



INTERNATIONAL INSTITUTE FOR STRATEGIC STUDIES

IISS is an independent centre for research, information and debate on the problems of conflict, however caused, that have, or potentially have, an important military content. It aims to provide the best possible analysis on strategic trends and to facilitate contacts.

<http://www.iiss.org/>



STOCKHOLM INTERNATIONAL PEACE RESEARCH INSTITUTE

SIPRI is an independent international institute dedicated to research into conflict, armaments, arms control and disarmament. Established in 1966, SIPRI provides data, analysis and recommendations, based on open sources, to policymakers, researchers, media and the interested public.

<http://www.sipri.org/>